

Identification and Prosecution of Human Trafficking in U.S.

Amy Farrell, Ph.D.
Northeastern University

Massachusetts Attorney General Human Trafficking Task Force
April 26, 2012

Extent of Human Trafficking in the U.S.

2

- No reliable measure of victims or suspects
- Estimates of human trafficking victims vary widely
 - U.S. State Department estimated 14,500 to 17,500 victims are trafficked *into* the United States each year
 - Estimate studies range from tens of thousands to hundreds of thousands
 - Lower end of estimates varied from 5,000-60,000 high end of estimates over 100,000 (Farrell et al., 2009)

Identified Victims and Offenders

3

□ Since 2000:

- Federally funded task forces opened 3,800 investigations (BJS, 2009, 2011)
 - 82% of investigations sex trafficking
 - Victim service provider records over 50% labor trafficking from same task forces
- 2,300 T-visa certification (U.S. Citizen and Immigration Services, 2011)
- 700 suspects prosecuted federally for trafficking related crimes (U.S. Department of Justice, 2010; U.S. Department of State, 2011).
 - Does not include prosecutions of commercial sexual exploitation of children cases not under the TVPA provisions.
- Unknown number of state anti-trafficking prosecutions
 - 18 states used state human trafficking statutes (U.S. Department of State, 2011).

Explanations for low numbers of identified victims

4

- Few victims, moral panic (McDonald, 2004; Weitzer, 2007, Markon 2007).
- Not doing enough to enforce the provisions of the TVPA (Morse, 2007).
- Insufficient coordination among agencies (GAO, 2007).
- Failure of organizations to *translate law on books to law in action*
 - Lack of awareness by law enforcement executives about the problem (Farrell et al. 2010; Newton et al. 2008; Clawson et al., 2006)
 - Failure to designate and train specialized investigative personnel (Farrell et al., 2010; Wilson, and Kleuber, 2006)

Challenges to Identification

5

- National Survey of Law Enforcement (Farrell et al., 2008)
 - 75% of chiefs did not think human trafficking was a problem in their community
 - Only 19% of local police agencies had any type of human trafficking training
 - 9% had developed protocols or policies to guide officer responses in these cases
 - 6% designated specialized units or personnel.
- Little knowledge of law; misunderstand definitions (Newton et al., 2008)

Investigation & Prosecution of Human Trafficking

National Institute of Justice 2012

6

- Study in 12 counties representing different state legislation and task force structures
- Review of **140 closed human trafficking case records**
- **In depth interviews with 166** police, prosecutors and victims service providers about *factors that helped promote or hinder the investigation and prosecution* of these cases
- Review sample of case records for **other types of crimes** that may include indicators of human trafficking but were not investigated or charged

Case Review Findings: Identification

7

- *Note: Findings not generalizable beyond the 12 study sites*
- 85% of cases we reviewed were sex trafficking, 11% were labor trafficking and 4% both labor and sex trafficking.
 - The majority of human trafficking victims identified were female (89%).
- Majority of cases identified through reactive approaches
 - 39% of cases began as a tip to law enforcement
 - 11% referral from other law enforcement agency
 - 10% came from victim self-report and 3% victim family report

Case Review Findings: Prosecution

8

- 69% of cases went forward to prosecution.
 - ▣ 33% were prosecuted in state courts
 - ▣ 36% of cases were prosecuted in federal courts.
- Few cases were charged with human trafficking offenses
 - ▣ 7% sex trafficking offenses
 - ▣ 9% sex trafficking of a minor offenses, and
 - ▣ 2% labor trafficking offenses
- State and federal prosecutors charge human trafficking offenders with other types of crimes
 - ▣ Compelling or promoting prostitution and the transport of persons for the purposes of prostitution

Challenges Inherent to Human Trafficking

9

- Nature of crime = hidden victims
- Victims extremely fearful
 - Fear of perpetrator
 - Fear of police and immigration authorities
- Dependence on victim information and testimony
- Lengthy investigation and prosecution process

Reactive Approach

10

- Police know victims unlikely to self identify, but still wait

‘Nobody calls us and says, ‘Hello. My name is ... and I’m a victim of trafficking. Please help me.’ It doesn’t happen,’ (Comprehensive Legislation- Task Force- West, Law enforcement 3).

- Prosecutors wait for police to bring them cases
- Negative feedback loop when prosecutors do not accept human trafficking cases investigated by police

Low Priority

11

Those community leaders need to prioritize the issue and keep open lines of communication with the police to let them know that this is a problem that they want taken seriously. If people from the community don't think trafficking is a problem then the police are not going to make it a priority.

Comprehensive Legislation-No Task Force-Midwest, Law enforcement 3

I think it is happening in the local farms here and I think that one of the reasons why is because people don't want to ruffle the feathers of the local farmers here, the people that support politicians and their communities. And I think that we do have a problem with labor trafficking here especially with the contractors.

Comprehensive Legislation-Task Force-Northeast, Law enforcement 1

Lack of Experience with New Laws

12

These are not laws that a prosecutor would deal with on a regular basis. Most prosecutors have never touched one of these cases.[...]There isn't a whole lot of case law on it so just like anything else if you haven't done something you aren't sure of it and you really don't want to stick your neck out and do something you are unsure of. These are high-profile cases, the last thing you want to do is stick your neck out and wind up getting an egg on your face because you failed in your prosecution. Even though everyone fails when they do things time and again, nobody wants to fail on a grand scale, whichs these cases turn out to be.

Comprehensive Legislation-Task Force-South, Law enforcement

Dependence on Victim Testimony *but* Lack of Services to Victims

13

Sometimes they go back home. Sometimes they just disappear into the wind. There's no real way to say ok, for the next six months, because that's how long it takes to prepare a case, you've got to stay here. We don't have a way to house them in like a safe house.

Comprehensive Legislation, Task Force-West, Law enforcement 1

Lack of Institutional Resources

14

In regards to the trafficking cases, they tend to be pretty serious. They can be a real chore. They can be very discouraging because you lose victims, and they recant and the cases are you know it's sort of like you know please don't disintegrate. It takes a lot of work to put them together and they are important or we are trying to focus on them and take them very seriously. Ideally, I wish there could be some level of focus you know from the other DA's but they are focusing on their caseloads so it is probably not going to happen. So I have a whole pan of things from cooperative teenage sex cases to child sexual assault to certain forms of child abuse or neglect cases, you know adult sexual assaults, the human trafficking.. so I handle all those types of cases.



Basic Legislation-Task Force-Midwest, Prosecutor

Narrow Focus

15

We only took cases in which there was a child involved, although it's a federal crime to take an adult. We said we had limited resources, we're going to focus on child prostitution. And so those were the prosecutorial decisions we made early on. That would sort of be the way I would look at any case that came in now. Unfortunately, we have to, I think, devote our resources to children.

Basic Legislation-No Task Force-Midwest, Prosecutor 1

- I think [my supervisor] would push back on it because he wants to make sure he can win a case... Especially since most of our labor trafficking involves immigrants...It sits better that the federal government would handle those cases.

- *Comprehensive Legislation-Task Force-West, Prosecutor 2*

Example of Prosecution Leadership

16

The challenge of 2008 is we've passed a new law, is it going to be just a law in the books and no one is going to enforce this law? Learning from mistakes of other states, training was imperative, key... We trained, trained, trained awareness, awareness, awareness; and we had a pretty good response, and we set up the regional work groups, and we closely collaborated with the vice to say okay, look at the prostitutes differently, and work with them. Our initial meeting with them was that 'oh no, these prostitutes are all working on their own, they're just out for drugs, they're just doing their own thing, there really isn't human trafficking happening.' We met with them again, we worked with them again, and we really kind of trained them to see these indicators. This is what you're going to see. We really developed a real close working relationship with them. We offered to screen some of their cases where they may have been missing something, talked about their interview skills; what are you missing when you're interviewing these women that they may not want to be open to speak to you about and little by little a case came. *No Legislation-No Task Force-West, Prosecutor*

Judges & Juries

17

“...I think there are judges that are perhaps more sympathetic to people soliciting sex over the internet or people who are engaged in profiting from human trafficking as long as there aren't; you know like I said earlier when people say the typical, oh these people are living in a shed at gun point and they've been shipped around...”

Basic Legislation-No Task Force-South, Prosecutor 1

“...especially with the state law because you don't have forced upon and coercion it doesn't mean that your juror isn't going to be waiting for some showing that this person was chained to the radiator and kept there. And if they don't see that, they're just going to see this person as a prostitute and not as a victim of trafficking.” *Basic Legislation-Task Force-Midwest, Victim service provider*

Use of Expert Testimony

“The other thing I utilize in this trial and will be using in subsequent trials, and we will see how this plays out in our state now is I have the investigators testify as to terminology and practices in the trafficking and prostitution trade and I think people are just startled and I think it is really shocking to jurors how degrading it is. I don’t think they realize this whole pimp prostitute relationship and how it really dehumanizes the women, even the terminology and the practices and the rules that are employed to keep the women. When the juries know the expert works with the human trafficking taskforce and works with the FBI and is trained in these areas and knows all about this and investigates this and these are the terms of the trade, this is how it functions. They just hear the pop-culture of sort of pimps are cool. They don’t realize that it is generally pretty demoralizing and the sexism is really in this day and age is overwhelming.”

Basic Legislation-Task Force-Midwest, Prosecutor

Conclusions

19

- Identification of human trafficking cases challenging – particularly labor trafficking
 - ▣ Reactive approach
 - ▣ Low priority
 - ▣ Negative attitudes toward victims
- Investigation and prosecution challenges similar to other sensitive crimes (e.g. domestic violence) but failure to adopt institutional practices shown to work in other crimes
- Prosecutors wary of using new human trafficking laws
 - ▣ Lack legal guidance and tools